

Queries & Clarifications:

We have recently received queries from teams, who have sought a clarification on the Moot Problem as under:

- Q1. 1) is this matter sub-judis
- 2) if the matter is already being decided in special court then is it writ petition or an appeal to the honorable supreme court.
- 3) and if it is writ petition than is the execution of court's order remaining.
- 4) as the laws are very precise than do we have to use common law only or we can use Indian law as well and a slimier query with regard to case laws. that are decisions of Indian supreme court can be taken into concederation.
- A1. 1) The matter is sub judice before the Trial Court, however, indictment has been framed against the accused persons.
- 2) The query is already answered in view of the clarification to question No. 1.
- 3) The query is already answered in view of the clarification to question No. 1.
- 4) The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.
- Q2. 1) Are the provisions which of the Prevention of Arkham Government Secrets Act which have been provided intrinsically linked to the statute? Do they represent the spirit of the statute?
- 2) Are we allowed to argue on the principles of natural justice as propounded by common law even though they've not been explicitly provided in the given statutes/Constitution? eg. Can we argue for the right to equality even though the only right provided in the problem is the right to freedom of speech and expression?
- 3) With regards to Article 6 of the constitution of Arkham, is the right given absolute? Can we assume that further provisions would not restrict the same? Or do we go by the general proposition that such rights generally have some restrictions?
- A2. 1) The introduction to the Arkham Government Secrets Act reads as under:

"The Dutch Company in the region of Arkham regularly has to face the instances of spying by citizens of Arkham or foreign nationals specially in issues relating to defence. The government has also been concerned about leakage of secrets of the Dutch Company regarding its policies of trade and commerce. To give the government the power to punish such anti-national acts and to protect such secrets the Government hereby proposes to enact Arkham Secrets Act."

- 2) The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.
 - 3) Every right is subject to reasonable restrictions specially Article 6.
- Q3. Certain provisions from Arkham's various statutes have been annexed to the moot problem. These provisions are *pari materia* with provisions in Indian statutes like the Indian Penal Code, the Code of Criminal Procedure, the Official Secrets Act, the Right to Information Act, the Prevention of Corruption Act. Therefore, my question is- in addition to the statutory provisions already provided, can I use other provisions from Indian statutes like the IPC to construct my arguments? For example, can I use the meaning of abetment or conspiracy that has been provided in IPC, since these terms have not been defined in the Arkham Penal Code?
- A3. The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.
- Q4. 1) The Moot Proposition states four reliefs that the consulting companies seek, whereas beneath those reliefs the sentence says that the matter is pending before the Supreme for quashing of the formal notice of indictment and for striking down the Prevention of Arkham Government's Secret Act.
- Do we have to argue just for the two reliefs that are mentioned beneath and assume that the other two are already heard by the Court, or we are supposed to argue for all the four reliefs?
- 2) There arises a discrepancy so as to whether the name of the building is Aurora PALACE or Aurora TOWERS, because on page 2 the building has been mentioned by both the names and in the APPENDIX-I in the investigation records the building is referred to as Aurora PALACE.
- Which of these stands right?
- 3) FALTUSA is the name of the Capital of Arkham, or the name of the Police or the name of the Investigating Agency?

- 4) The Accused Persons referred to on Page 5 stands for Eddie and Elvis only or for all of them including the consulting companies?
- A4. 1) No clarification is required to the said query. The participants are to rely upon the moot problem.
- 2) The name of the place is aurora towers. The participants may treat both as the same.
- 3) No clarification is required to the said query. The participants are to rely upon the moot problem.
- 4) No clarification is required to the said query. The participants are to rely upon the moot problem.
- Q5. 1) Whether Article 47 of Constitution of Arkham should be read with Article 130 of Criminal Code of Procedure and Rules, 1920 or should be read prior to Article 130?
- 2) Who are the accused person before Special Court?
- 3) Who are Petitioner in Writ Petition? Are Eddie and Elvis are the petitioner?
- A5. No clarification is required to the said queries. The participants are to rely upon the moot problem.
- Q6. 'Section 120' mentioned in 'section 130' of Criminal Code of Procedure & Rules, 1920 on page no. 10 of the moot problem has not been discussed anywhere in the proposition. I want to seek clarification as to what is section 120 of Criminal Code of Procedure & Rules, 1920.
- Whether "The Special Court constituted under the Prevention and Punishment of Corruption Act, 1998" is the same Court as mentioned in S. 2 (1) of the same Act? (Page no. 5 & 16)
- A6. Participants are expected to rely upon the moot problem. No clarification in respect of the said query is necessary. Furthermore, Section 120 is not relevant to the Moot Problem.
- Q7. You sent the Introduction to the Arkham Secrets Act. Likewise, could you kindly send the same for the Information Act?

- A7. Participants are expected to rely upon the moot problem. No clarification in respect of the said query is necessary.
- Q8. Does the Arkham Secrets Act have a definition clause? If so, could you provide me with the same?
- If not, can we assume that it does not exist because of the fact that the statute starts with a substantive provision (S. 2) after (probably) the Introduction clause?
- A8. Participants are expected to rely upon the moot problem. No clarification in respect of the said query is necessary.
- Q9. Page 5 Issue (a.) talks about proving The Prevention of Arkham Government Secrets Act 1892, against the letter and spirit of Freedom of Information Act, 2000. But in the Statutes given to us, on Page 13 The statute talks only about Information Act, with the absence of proper name of the statute as given in the issue and also there is no year specified. Should we assume it to be the same act or are both of them different?
- A9. It is the same Statute i.e Freedom of Information Act, 2000.
- Q10. Are there any other additional provisions of the Arkham Government Secrets Act, 1892, that are relevant apart from the ones already mentioned in the Appendix - I? If so, then could list them out as well?
- A10. No clarification is required. Participants are required to rely upon the moot problem.
- Q11. Does the Arkham Constitution contain provisions under Chapter II with respect to the right to equality and the protection of life and personal liberty? If so, could you clarify as to what exactly these provisions state as per the Arkham Constitution (i.e. the terminology used in these Articles in the Arkham Constitution)? Also, do we assume that there can be reasonable restrictions placed on the right to freedom of speech and expression as under Article 6 of the Arkham Constitution?
- A11. Every right to subject to reasonable restrictions specially Article 6. No further clarification is required.
- Q12. Does the Freedom of Information Act of 2000 (i.e. the Arkham legislation regarding the right to information) contain any other relevant provision(s) which should to be taken into account? Could you also let us know the object and reasons behind the passing of this law and the Preamble of the Act?
- A12. No clarification is required. Participants are required to rely upon the moot problem.
- Q13. Also, do we take it that the Constitution of Arkham was enacted after Arkham attained Independence from the Dutch? In other words, is the Arkham Government Secrets Act a pre-constituional enactment?

- A13. It is clarified that the Arkham Government Secrets Act is a pre-constitutional enactment.
- Q14. Could you correct the error in the Statement of Facts which states that they have filed a Writ before the Faltusa Supreme Court under the Constitution of Faltusa? I believe you want to say that it is the Arkham Supreme Court under the Arkham Constitution?
- A14. It is clarified that the Writ has been filed before the Arkham Supreme Court under the Arkham Constitution.
- Q15. The term 'accused persons' has been mentioned repeatedly in the problem to refer to different people in different situations. Please clarify for the purposes of 'the entire prosecution' mentioned in part b) of the writ sought, who the 'accused persons' are, ie. eddie and elvis/eddie, elvis, Mr. Morrison, Mr. Aristotle, Mrs. Najeeda Shah and Mr. Rufus Grey.
- A15. The participants may treat "accused persons" as Petitioners in prayer [b]. However, please read the term in the context it has been used at other places in the moot problem. There is no uniform application for the same.
- Q16. Does the definition of "court" as provided in Section 2(1) of the Prevention and Punishment of Corruption Act apply to the Special Court under which the case has been submitted?
- A16. Participants are expected to rely upon the moot problem and no clarification is required.
- Q17. 'Public Duty' has been defined in Section 2(2) of the above mentioned Act even though there is no reference to it, and 'Public Servant' has been omitted. Would you please specify the reasons for the above, or inform that this is not a mistaken omission?
- A17. Participants are expected to rely upon the moot problem and no clarification is required.
- Q18. In section 130 of the Code of Criminal Procedure regarding Quashing of Indictment, a reference is made to a 'section 120' which is not given anywhere. Please specify.
- A18. Participants are expected to rely upon the moot problem. Section 120 is not relevant to the Moot Problem.
- Q19. Under S. 41(c) of the Freedom of Information Act, 2000, what are the intelligence and security organizations that have been specified under the Act?
- A19. Participants are expected to rely upon the moot problem and no clarification is required.

Q20. It is seen that some of the provisions given in the Appendix - I seem to be *pari materia* with some of the provisions of certain Indian legislations.

1) Whether judicial precedents in India based on such provisions can be binding on the court?

2) What apart from the legislations given in the Appendix are binding on the court of Arkham?

Some clarity on the above matters would be very appreciated.

A20. The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.

Q21. Does the Arkham Constitution contain provisions under Chapter II with respect to the right to equality and the protection of life and personal liberty? If so, could you clarify as to what exactly these provisions state as per the Arkham Constitution (i.e. the terminology used in these Articles in the Arkham Constitution)?

A21. Yes Chapter II does contain the provisions for right to equality and life, however, no further clarification is required.

Q22. Are the reasonable restrictions which are applicable to Article 6 of the Arkham Constitution analogous to Article 19(2) of the Constitution of India or are the reasonable restrictions unlimited?

A22. Every right is subject to reasonable restrictions specially Article 6. No further clarification is required.

Q23. Please clarify that the 'Accused Persons' in the Second issue i.e.
b) To quash the entire prosecutions against the 'Accused Persons' as Special Court has no jurisdiction as none of the 'accused persons' are 'Public Servants'.
In this issue the accused persons includes Eddie and Elvis along with other petitioners or not?

A23. The participants may treat "accused persons" as Petitioners in prayer [b]. However, please read the term in the context it has been used at other places in the moot problem. There is no uniform application for the same.

Q24. Since the issue is regarding quashing of indictment, are the appellants supposed to prove the offences beyond reasonable doubt? Or are the appellants appealing regarding the framing of indictment itself which means that the admissibility and relevance of the evidence have to be argued upon.

A24. The Petitioners have sought quashing of the proceedings after framing of indictments.

- Q25. Has any sanction by any authority for instituting the case in the Special Court been taken?
- A25. Participants are expected to rely upon the moot problem and no clarification is required.
- Q26. What exact 'various government documents' have been recovered from the offices of the four companies?
- A26. Participants are expected to rely upon the moot problem and no clarification is required.
- Q27. How has the police obtained call recording and call details of eddie and elvis?
- A27. Participants are expected to rely upon the moot problem and no clarification is required.
- Q28. Has the confession of eddie and elvis been recorded by the police?
- A28. Yes. No further clarification is required and Participants are expected to rely upon the moot problem.
- Q29. Has the FIR Report been sent to the Magistrate?
- A29. Participants are expected to rely upon the moot problem and no clarification is required.
- Q30. Section 130, of the Code of Criminal Procedure mentions about section 120 and there is no clarification regarding section 120 in the materials you have provided.
- A30. Participants are expected to rely upon the moot problem. Section 120 is not relevant to the Moot Problem.
- Q31. Issue C, of page 5 is about quashing the notice of indictment. Is it the notice of indictment or the case which has to be quashed?
- A31. Yes. Issue C at Page 5 is about quashing of the notice of indictment and the proceedings as well.
- Q32. Who are the accused who are referred to in the case law?
- A32. Please read accused person in the context it has been referred to in the Moot Problem.
- Q33. What are the offences that they are charged for?
- A33. The Accused are charged for the offences as contained in the "information report".
- Q34. Please clarify regarding confusion over the matter in high court & supreme court.
- A34. The matter is pending in the is Supreme Court of Arkham.

- Q35. The Complete indictment report
- A35. Participants are expected to rely upon the moot problem and no clarification is required.
- Q36. The Complete Charge Sheet
- A36. Participants are expected to rely upon the moot problem and no clarification is required.
- Q37. The Complete First Information Report
- A37. Participants are expected to rely upon the moot problem and no clarification is required.
- Q38. Can other laws be considered para materia to Indian laws?
- A38. The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.
- Q39. Who are the accused persons mentioned in the issue "b]" of the writ petition? Whether they are 'Eddie' & 'Elvis' only or even 'Mr. Morrison' and others too?
- A39. The Petitioners are accused persons apart from Eddie and Elvis.
- Q40. In page 10 of fact sheet, Section 130 of Criminal Procedure Code mentions about Section 120 in it. But no Section 120 is given in problem.
- A40. Participants are expected to rely upon the moot problem. Section 120 is not relevant to the Moot Problem.
- Q41. The definition for the breach of trust talked about in Section 390 of the Arkham penal Code has not been provided.
- A41. Participants are expected to rely upon the moot problem and no clarification is required
- Q42. Section 120 talked about under Section 130 of the Criminal Code of Procedure and Rules, 1920 has not been stated anywhere.
- A42. Participants are expected to rely upon the moot problem. Section 120 is not relevant to the Moot Problem.
- Q43. In the moot proposition at page 5 it is mentioned Faltusa Supreme court & Constitution of Faltusa. The query is what shall we mention in our memorial- Supreme Court of Faltusa or Supreme Court of Arkham and Constitution of Faltusa or Constitution of Arkham? kindly clear our confusion oblige.
- A43. It is the Supreme Court of Arkham under the Constitution of Arkham.

- Q44. A clarification is sought whether the charges mentioned in the Information Report are the same as those in the indictment report submitted by the Faltusa police to the Court. The team would like to know if all the charges in the Information Report are the charges that Mr. Morrison, Aristotle etc are indicted for, or can the team reasonably assume that changes have been made in the final report submitted by the Faltusa Police to the Court?
- A44. The charges mentioned those are the same as in the indictment report and the formal indictment.
- Q45. Clarification regarding the offence for which the indictment has been framed since the court frames the indictment, no details of the offences for which the accused are formally indicted have been provided to us. Do we have to assume the same?
- A45. The indictment is for offences under which the information report has been registered.
- Q46. 1: on page 5, who all are 'accused persons' against whom Special Court had passed the sentence?
2: on page 3, who are unknown persons and accused persons who were confronted with recorded conversations?
3: who are the associates with Edie Elvis?
4. Were Edie and Elvis convicted in special court?
- A46. 1. No sentence has been passed. All accused persons are indicted.
2. Participants are expected to rely upon the moot problem and no clarification is required
3. Participants are expected to rely upon the moot problem and no clarification is required
4. There is no conviction.
- Q47. What is the position of authority of Mr.Aristotle, Mr. Rufus Grey and Mrs. Najeeda Shah in their respective companies?
- A47. Participants are expected to rely upon the moot problem and no clarification is required
- Q48. You have sent an introduction to Arkham Government Secrets Act, Like wise could you kindly send the same for Prevention and Punishment of Corruption Act, 1998.
- A48. No clarification is required. Participants are expected to rely upon the Moot Problem.
- Q49. It is unclear from the moot problem if the matter has been partly heard by the arkham Supreme Court before or not as all matters are not pending, are the participants to assume that it is the first appearance before the Supreme Court?

- A49. The participants are expected to rely on the moot problem. However, you may note that the Supreme Court of Arkham shall be disposing off the matter finally by adjudicating upon the issues raised in the petition.
- Q50. Do we have to write The statement of facts of the case in the moot memorial because the rules doesn't make it necessary?
- A50. The participants are at liberty to include a statement of facts, if they so desire. However, the same is not mandatory. For any further clarification, please refer to Rule 13 of the 12th K.K. Luthra Memorial Moot Court.
- Q51. Issue a writ to strike down the entire The Prevention of Arkham Government Secrets Act, 1892 being otiose and redundant and also against the letter and spirit of Freedom of Information Act, 2000
otiose and redundant would also include that the act is ultra vires or unconstitutional
- A51. No clarification is required to the said query. The Participants can raise additional grounds, if necessary
- Q52. What are the offences in the Indictment that is sought to be quashed by the Petitioners and against whom are each of those offences charged?
- A52. The Accused Persons are charged with same offences as mentioned in the information report.
- Q53. Should the Petitioners seek to quash the indictment against them only or should the Petitioners seek the quashing of Indictment against all accused persons, including Eddie and Elvis?
- A53. No response required. The Participants are expected to rely upon the moot problem.
- Q54. Are the offences mentioned in the Information Report prepared by the Faltusa Police the offences in the impugned Indictment, and are these directed against all the accused persons, including the Petitioners and Eddie and Elvis?
- A54. Yes. It is correct.
- Q55. Can we use other laws apart from those mentioned in the problem.
If yes then are they in pari materia with laws of India.
- A55. The participants can rely upon precedents of any common law system & not limited to Indian precedents. However, the same have only persuasive value.
- Q56. Are teams free to frame their issues or do they have to stick to one's mentioned in problem.

- A56. The participants are at liberty to frame issues, besides those mentioned in the Moot Problem.
- Q57. The indictment report is not provided in the problem
- A57. The participants are expected to refer to the moot problem.
- Q58. Whether investigating agency and faltusa police are the one and the same body?
- A58. Yes. The Investigating Agency and the Faltusa Police are the one and same body.
- Q59. Whether the matter is still pending before the Special Court or has it already been decided and disposed of?
- A59. Only a notice of indictment is being served on the accused persons.
- Q60. Please provide the preamble of Prevention and Punishment of Corruption Act, 1998.
- A60. No clarification is required. Participants are required to rely upon the moot problem.
- Q61. Please provide the preamble of Information Act.
- A61. No clarification is required. Participants are required to rely upon the moot problem.
- Q62. "Out of the offences mentioned in paragraph 2 of page 2, which offences have the four petitioners been charged with according to the indictment?"
- A62. Charges are under the same provisions as the Information Report.
- Q63. Is BRICS organization in the 1st para of Page 1 of 16 a hypothetical Organization or does it correspond to the actual BRICS Organization that exists today? Can we presume Arkham to be a signatory to International Conventions that the other countries of BRICS have ratified?
- A63. Participants are expected to rely on the moot problem.
- Q64. What are the offences referred for which indictment report has been served? Are they all the offences referred to in the information report or are they the ones only contained in Prevention and Punishment of Corruption Act?
- A64. All the offences mentioned in the Information Report are the offences contained in the notice of Indictment
- Q65. Is there any substantive offence as, or any general rule of criminal liability for abetment, in the penal statutes in the state of Arkham?
- A65. No response required. Participants are free to place reliance on common law, if required.

Q66. In the moot problem, it is said that the principles of criminal law prevalent in Common Law Countries have a high persuasive value. What about principles of Constitutional Law and Human Rights Jurisprudence?

A66. The participants can rely upon precedents of any common law system and not limited to Indian precedents. However, the same have only persuasive value.

Q67. What are the contents of the indictment report submitted before the special court against the accused persons?

A67. No response required. Participants are expected to rely upon the moot problem.

Q68. We needed to clarify if the investigation agency who conducted the preliminary report is the same as the Faltusa Police? (since para 2 on the 2nd page suggests that it can be used inter-changeably)

A68. The Investigation Agency is the same as the Faltusa Police.

Q69. On page 5 of the problem, four issues (A through D) are presented as being before the Supreme Court:

“a) Issue a writ to strike down the entire The Prevention of Arkham Government Secrets Act, 1982 being otiose and redundant and also against the letter and spirit and spirit of Freedom of Information Act, 2000.

b) To quash the entire prosecution against the Accused Persons as Special Court has no jurisdiction as none of the Accused Persons are ‘Public Servants.’

c) Quash the notice of the indictment as the offences alleged were not made out

d) To stay the proceedings during the pendency of the Writ.

Following this list, the problem states that only quashing of the indictment and striking down the Secrets Act are pending before the court:

“The matter is pending before the Supreme Court for quashing of the forma notice of indictment as well as for striking down the Prevention of Arkham Secrets Act.”

Are we to argue, in our memorials and our oral arguments, for all four issues (A through D) or only for the two issues mentioned below the list (A and C). Specifically, should we not argue and not include in our briefs any analysis of issues B and D?

We are aware that this question has previously been asked but the answer remains unclear.

A69. The participants are required to argue on all the four issues.

Q70. On page 5 of the problem it states that the Indictment Report before the Special Court was "constituted under the Prevention and Punishment of Corruption Act, 1998." It then goes on to state that the Special Court decided that there can be an indictment under the Prevention of Arkham Government Secrets Act, 1892. Are these the only two Acts under which the Indictment is framed? That is, are the offences in the indictment not also constituted under the Penal Code?

A70. Formal Indictment has been framed under all provisions mentioned in the Information Report.

Q71. Are the exemptions to the Freedom of Information Act (listed on pages 13 and 14 of the problem) exhaustive? Or does the ellipses at the bottom of the list indicate that there are further categories of exemption?

A71. There are further exemptions, however, they are not germane for the present problem.

Q72. Kindly clarify the following problem if possible.

Page 16 of the MOOT Problem talks about the Prevention and Punishment of Corruption Act 1998 Section 11 talks about public servant whereas Section 11(1)(2) talk about public official and then again 11(3) talks about public servant.

It would be of great help if you could clarify whether it has to be public servant or public official in all three of them

A72. The query needs no response.

Q73. I understand that the last date for queries is over. However, this is not quite a query. I would like to know if the comma in the phrase "secret official code word, or pass word" is a typographical error in the second last line on page 11. Especially since there is no comma in the thirteenth line on page 12. I don't mean to be pedantic but I hope you appreciate my concern in light of the fact that one misplaced comma can change the interpretation of an entire provision.

A73. Read the provision without a comma in the phrase "secret official code word, or pass word". No further response required.
